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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,898	04/13/2004	Timothy M. Clay	CE11979JUI	3997
7590	06/16/2006		EXAMINER	
Larry G. Brown Motorola, Inc. Law Department 8000 West Sunrise Boulevard Fort Lauderdale, FL 33322				HUYNH, BA
				ART UNIT 2179
				PAPER NUMBER

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/822,898	CLAY ET AL.
	Examiner Ba Huynh	Art Unit 2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 March 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-15 and 17-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-15 and 17-28 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 7, 10, 11, 20, 21, 24, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent #5,903,634 (Wakabayashi et al), in view of 20040246510 (Jacobsen et al.)

- As for claims 1, 14, 15, 28: Wakabayashi et al teach a method and corresponding system for conveying an image position, comprising the steps/means for displaying at least a portion of a menu image on a display 6, the menu image includes a background (4:9) and at least one symbol (menu items 6.1-6.10) superimposed on the background, modifying the portion of the menu image to convey to a user a position of the portion of the menu image in relation to the entire menu image wherein the modifying comprises graduating the contrast of at least a portion of the background in relation to the symbols (4:8-24). While Wakabayashi et al teach the graduating of the contrast in a vertical direction, Wakabayashi et al fails to clearly teach the graduating of the contrast diagonally. However, implementation of graduating the contrast

diagonally is well known in the art (see the references cited below) and is disclosed at least by Jacobsen et al (0001). It would have been obvious to one of skill in the art, at the time the invention was made to combine Jacobsen's teaching of graduating background contrast diagonally to Wakabayashi et al. Motivation of the combining is for the artistic appearance of the phone list.

- As for claims 3, 17: The graduating includes varying at least one of the hue, brightness, and saturation of the background (4:13-22, 5:4-6).
- As for claims 4, 18: Menu symbols 6.1 – 6.10 are superimposing over its background image. It is noted that Wakabayashi's modification comprises graduating the contrast of the background or the character of the symbols (2:9-12).
- As for claims 5, 19: The graduating includes varying at least one of the hue, brightness, and saturation of the background (4:13022, 5:4-6).
- As for claims 6, 20: Menu symbols 6.1 – 6.10 are superimposing over its background image. It is noted that Wakabayashi's modification comprises graduating the contrast of the background or the symbols (4:13-22). Wakabayashi et al is silent regarding graduating the contrast of at least a portion of both the background and the symbols. However, it would have been obvious to one of skill in the art, at the time the invention was made, to implement the graduating the contrast, hue, brightness, or saturation of the menu symbols to convey the symbol position. The implementation would have been an obvious design variation in light of Wakabayashi et al.

- As for claims 7, 21: In light of the reasoning set forth in the rejection of claim 6, the graduating includes varying at least one of the hue, brightness, and saturation of the background (4:13-22, 5:4-6).
  - As for claims 8, 22: The menu image comprises a fixed length of 10 phone numbers order by frequency of usage (fig 1). The order of the phone number may be changed, but the total of phone numbers is fixed. The menu image can be any set of data displayed in order, other than the most frequently used phone list (5:23-27).
    - As for claims 9, 23: The background is a bitmap image and the symbol is a list that includes a fixed list of phone numbers.
      - As for claims 10, 11, 24, 25: The menu image is a list of phone number displayed by the order of most frequently used (2:18-24), superimposing over a bitmap of background image (fig 1). Wakabayashi et al is silent regarding scaling the image to accommodate changes to the image. However, official notice is taken that implementation of truncating least frequently used menu items is well known in the art of menu display. It would have been obvious to one of skill in the art, at the time the invention was made, to combine the well known implementation of truncating the least frequently used menu to Wakabayashi's teaching of menu display based on frequency of usage. Motivation of the combining is for conserving display space and ease of menu selection. In light of the reasoning the menu image would be scaled to accommodate change in the menu.
- As for claims 12, 26: The color servers as positional indicators (4:8-24). Each phone number is further designated by a numerical order (4:45-56)

- As for claims 13, 27: Color and numerical order are superimposed over menu symbols 6.1 – 6.10 based on the number of the menu symbols (fig. 1, 4:25-45).

***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ba Huynh whose telephone number is (571) 272-4138. The examiner can normally be reached on Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (703) 308-5186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ba Huynh  
Primary Examiner  
AU 2179  
6/13/06

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